



City of Arlington Texas

City of Arlington Request For Proposals

PLAN REVIEW AND INSPECTION SERVICES FOR DALLAS COWBOYS COMPLEX

The City of Arlington is accepting proposals until 4:00 p.m., Friday, January 21, 2005 for Professional Services required to support the municipal regulatory functions associated with construction of the Dallas Cowboys Stadium Complex.

Return proposals to: Karen Brophy
Director of Planning and Development Services
Mailing address: P.O. Box 90231, MS 01-0241
Arlington, Texas 76004-3231
-or- Physical Address: 101 W. Abram Street
Arlington, Texas 76010



REQUEST FOR QUALIFICATIONS ANNOUNCEMENT

Dated: December __, 2004

PLAN REVIEW AND INSPECTION SERVICES FOR DALLAS COWBOYS COMPLEX

The City of Arlington ("City") is seeking a response to this Request for Qualifications (RFQ) from consultants interested in providing professional services needed to support the municipal regulatory functions associated with the construction of a Stadium Complex designated for use by the Dallas Cowboys Football Club, LLC ("Cowboys Complex").

Qualifications, in accordance with the specifications and scope of work below, will be accepted until 4:00 p.m. on January 21, 2005. Return qualifications to:

Karen Brophy

Director of Planning and Development Services

Mailing address: P O Box 90231, MS 01-0241

Arlington, TX 76004-3231

***-or- Physical address: 101 West Abram St, Second Floor
Arlington, TX 76010***

PROJECT OVERVIEW

The City's role in the construction of the Cowboys Complex is described in the Master Agreement dated August 17, 2004. This RFQ seeks the professional services necessary to perform the municipal regulatory functions to facilitate and expedite

- (i) scheduling and conducting necessary plan review and inspections,
- (ii) granting necessary permits and
- (iii) the completion of other actions required for compliance with City ordinances, rules or regulations with respect to the design and construction of the Cowboys Complex for occupancy by August 2009.

The project services include three functions of City services: (1) building inspection, (2) public works and water utilities plan review (3) public works and water utilities construction inspection. Responders may submit qualifications for one or more of these functions. Responders will not be considered for anything less than the full scope of the applicable function. Joint ventures that can respond to all three functions are encouraged.

PROJECT SCOPE

Professional services will be needed in three functions of municipal regulations:

- (1) architectural plan review and construction inspection, including inspection of demolition;
- (2) professional engineering services for design review of public facilities including civil improvements to streets (traffic impact analysis, streetlights, traffic signals and traffic control plans), drainage, water, sanitary sewer, and storm water management; and
- (3) professional services for construction inspection of public facilities including streets, drainage, water and sanitary sewer improvements, streetlights, traffic signals, traffic control, and storm water management.

1. Building Inspection

Services will include demolition inspection of approximately 125 structures, beginning in the second quarter of 2005, expected completion by December 2005. Architectural plan review process will be subject to the deferred submittal process outlined in International Building Code (IBC). Plan review shall include all building, energy, mechanical, electrical and plumbing disciplines, including fire alarms,

suppression and smoke removal systems, restaurant and food preparation areas. The Building Official shall retain final authority in all matters of code interpretation, subject to appeal to the Building Code Advisory and Appeals Board.

Responder must have qualified inspection staff available at the construction site on a full-time basis, up to 24/7 as requested by the City or the Cowboys, during the construction of the Cowboys Complex. Inspection services will include inspection of all building, energy, mechanical, electrical and plumbing disciplines, restaurants and food preparation areas, fire alarms, suppression and smoke removal systems. Monitoring of special inspections and testing as defined in IBC Chapter 17 is included.

2. Public Works and Water Utilities Plan Review

Services shall include civil plan review for all public infrastructure including all elements as noted above in accordance with City of Arlington adopted standards, as well as close coordination with proposed and existing projects that interface with Cowboys Complex, and adjacent or surrounding infrastructure. Coordination with city staff for abandoning water and sewer utilities and public streetlights is included. Arlington Water Utilities and the Department of Public Works shall retain final authority in all matters of policy interpretation and acceptance of plans.

3. Public Works and Water Utilities Construction Inspection

Services shall include inspection of all abandonment and construction of public facilities including all elements as noted above. Responder shall have qualified inspection staff available at the construction site, up to a full time basis, including 24 hours/day, 7 days/week, on demand during the project.

SCHEDULE

The City will attempt to adhere to the following schedule. The City reserves the right to change the schedule as needed and will notify firms in writing of any significant changes.

Mail Request for Qualifications	December 8, 2004
Information meeting, 9:00 AM, Council chambers	December 20, 2004
Deadline for submittal of qualifications	January 21, 2005
Selection committee review of qualifications	February 18, 2005
Complete interviews with firms if City determines necessary	March 18, 2005
Complete contract negotiations	April 5, 2005
Approval of contract by City Council	April 26, 2005

GENERAL INFORMATION

The City of Arlington reserves the right to accept or reject any or all responses to this RFQ and to accept only those that are in the best interest of the City.

There is no expressed or implied obligation for the City to reimburse responding firms for any expenses incurred in preparing responses to this request.

To be considered, one (1) original (so marked) and eight (8) copies of the response must be received prior to the due date and time.

During the evaluation process, the committee reserves the right, where it may serve the City's best interest, to request additional information or clarification from responders, or to allow corrections of errors or omissions. At the discretion of the committee, firms submitting responses may be requested to make oral presentations as part of the evaluation process.

The City reserves the right to retain all responses and to use any ideas included in a response regardless of whether that response is selected. Submission of a response indicates acceptance by the firm of the conditions contained in this request for qualifications (RFQ), unless clearly and specifically noted in the response and confirmed in the contract between the City and the firm selected.

The prospective contractor certifies by submission of their qualifications that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal, state, or local department or agency.

No lobbying of selection committee members, city officials, or city council members will be permitted or tolerated during the review process, beginning January 21, 2005. All questions concerning the RFP shall be in writing and directed to Karen Brophy, Director of Planning and Development Services. A copy of the city's written response, if any, will be mailed to all firms responding to this request.

ROLE OF CONSULTANT

The consultant will furnish all required labor, materials, supplies, and travel required in connection with the project. The City expects that the project staff will include individuals with expertise in projects of similar scope. The minimum qualification for the Building Inspection function is shown on attachment 1.

The minimum qualification for the Public Works and Water Utilities Plan Review and Construction Inspection functions are shown on attachment 2.

ROLE OF THE CITY

The City will make available copies of any relevant reports, studies, or other documents as may be needed for the completion of the project. All services will be subject to the terms of the Master Agreement and other Project Documents as they are executed. The Master Agreement is available at:

http://www.ci.arlington.tx.us/citysecretary/pdf/110204_MasterAgreement.pdf

The Master Agreement anticipates the creation of a Development agreement, which will affect the services provided in this project. This will be made available when it is finally executed.

The City of Arlington standard terms and conditions and professional services agreement is available at:

<http://www.ci.arlington.tx.us/finance/purchasing/vendors.html>

A template professional services agreement is attached. The final version of the professional services agreement is subject to negotiation of the parties and will be binding only upon adoption by the City Council.

REQUEST FOR QUALIFICATIONS

Responses to this RFQ shall not exceed 100 pages and should be provided in the following numbered format as listed below.

1. Provide a brief description of the firm, including the number of years the firm has been in existence, range of professional services, office location(s), and staff size.
2. The City is interested in the experience of the firm and/or the proposed project leaders on similar projects. Please provide information regarding a minimum of three (3) and a maximum of five (5) similar projects, completed within the last seven (7) years, and include the following items in the narrative:
 - project name and location;
 - year completed;
 - owner representative's name, title, address, and phone number;
 - project description; and
 - name of project manager and members of the project team.
 - scope of services provided
 - estimated completion date of project/actual completion date of project

3. Please include an organizational chart that indicates the project's key personnel and their responsibilities. This chart should also include any proposed subcontractors.
4. Provide for each of the key personnel and subcontractors related work experience, education, training, and any other pertinent data that would demonstrate competence and experience in this type of work. This portion of the submittal shall include a resume for each proposed individual. Please note if any proposed individual would be a subcontractor or consultant outside the lead firm. Abbreviated resume for each individual identified as key personnel above that includes the following:
 - Name
 - Title within firm
 - Project assignment
 - Percent of time individual will be devoted to project
 - Location of current office assignment
 - Education – degree(s)/year/college or university/specialty
 - Registration – State/year
 - Number of years with firm
 - Experience relative to project
 - Current projects working on and estimated completion dates
5. Explain the firm's past experience with each subcontractor listed. Should the responder be selected, City shall have the right to object to change in the proposed key personnel or subcontractors.
6. Identify the project's principal contact and contact information.
7. Describe performance standards for completion of reviews and inspections including the response time for such requests for service.
8. Describe a general project approach that could be employed to complete the project. Describe a process or project that was used in the past to successfully complete a similar project.
9. The firm should list and describe any prior or ongoing engagements or professional relationships that would constitute a potential conflict of interest, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed project. The firm covenants and agrees that the firm and its officers, employees, and subcontractors will have no interest, including personal financial interest, and will acquire no interest, either directly or indirectly, with the Dallas Cowboys Football Club, LLC, its affiliate organizations, and any organization associated with the construction of the Cowboys Complex, that will conflict in any manner with the performance of the services called for under this RFQ.
10. An affirmative statement should be included indicating that the firm and all assigned key professional staff are properly and currently registered/licensed to practice in the State of Texas.
11. Include a certificate of insurance evidencing the firm's current full policy limits for coverages in the template professional services agreement.
12. Identification of Potential Problems. The response should identify and describe any potential problems, the firm's approach to resolving these problems, and any special assistance that will be requested from the City.
13. In no more than five pages, summarize your submittal and add any other comments that you feel would make your firm uniquely qualified to participate in this project. Describe why your firm should be selected.

CRITERIA FOR EVALUATION OF QUALIFICATIONS

- Professional background and qualifications of key personnel
- Previous experience with projects of this scope
- Reputation for personal and professional integrity and competence
- Quality and completeness of prior work
- Reference of previous clients
- Capability to perform all aspects of the project

- Capability to meet all deadlines and schedules
- Thorough narrative and graphic timeline that details the proposed project approach
- Description of methodology to be used in completing the required work
- Availability of key personnel
- Specific experience with projects of this type
- History of performance on similar projects
- Availability of adequate personnel to perform the required work in an expedient manner
- Financial stability of firm(s)
- City's past experience with firms(s), if any

CONSULTANT SELECTION PROCESS

Qualifications will be evaluated by City of Arlington staff committee comprised of representatives of the Planning and Development Services, Public Works, Fire, Neighborhood Services and Water Utilities departments. Other staff members may also be consulted. This committee will select up to three (per function) prospective consultants or firms, using the above criteria, whose responses best demonstrate the competence and qualifications needed to perform the service. At the discretion of the committee, firms submitting responses may be requested to make oral presentations as part of the evaluation process. Notice will be given as to the time and place of the presentation.

Upon selection, the consultant will participate in the final development of this contract's project structure, scope, sequence, timeline for completion, and other performance measures required to meet the indicated contractual responsibilities. The Committee will make its recommendation to the City Council, which shall have sole authority to make the final award of contract. A formal contract for professional services will be executed through the Arlington City Attorney's Office, with coordination through the Planning and Development Services department.

SUBMISSION OF QUALIFICATIONS

Submit qualifications (1) original and eight (8) paper copies and to the address below:

Karen Brophy
Director of Planning and Development Services
Mail address: P O Box 90231, MS 01-0241
Arlington, TX 76004-3231
-or- physical address: 101 West Abram St, Second Floor
Arlington, TX 76010

NOTE: Absolutely no faxed or e-mailed qualifications will be accepted. The City of Arlington shall not consider any request for extension of the deadline for qualifications.

Attachments: Planning and Development Services Inspectors' Minimum Qualifications
 Public Works and Water Utilities Minimum Qualifications
 City of Arlington standard professional services agreement



Minimum Qualifications for Stadium Architectural Plan Review And Construction Inspection

I. Codes currently in effect:

IBC (2000) w/ local amendments
IRC (2000) w/ local amendments
IPC (2000) w/ local amendments
NEC (2002) w/ local amendments
IMC (2000) w/ local amendments
IECC (2001) w/ local amendments
IFC (2000) w/ local amendments

It is anticipated that the City will adopt the 2003 edition of the ICC family of codes during 2005.

II. Minimum qualifications

Designate a responsible person in charge who has at least one of the following:

- 1) Registered professional engineer
- 2) Licensed architect

Designate a person responsible for supervision of all fire code related plans review and inspection who is registered as a Fire Protection Engineer by the Texas Commission on Fire Protection.

III. Minimum qualifications for employees to perform listed acts

The attached table indicates the level of certifications required to perform the plan review and inspection. References to a certification (other than Fire Code) are as listed in the 2004 ICC National Certification Program for Code Professionals for *International Code Council* (ICC) Certifications and in accordance with the *International Association of Electrical Inspectors* for IAEI Certifications.

Legacy Certifications shall have the equivalency as indicated in the 2004 ICC Certification Renewal Bulletin. Advanced Fire Inspector certificate is issued by Texas Commission on Fire Protection. Registered Sanitarian designation is issued by the Texas Department of State Health Services, formally Texas Department of Health.

Plan review must be performed by the specific qualified individual only, and the individual shall certify the plans review. Field inspections must be performed by the specific qualified individual only, and the individual shall certify the inspection reports.

In addition to the required minimum level of certifications, individuals performing plan review and inspections shall be required to provide proof of related experience as follows:

Commercial Plan Review: 5 years of related experience
Commercial Inspection: 5 years of related experience
Food establishment plan review and inspection: 5 years of related experience
Fire Plans Review: 8 years of related experience
Fire Sprinkler Plans Review: 8 years of related experience
Fire Alarm System Plans Review: 8 years of related experience
Fire Sprinkler Inspection: 8 years of related experience
Fire Alarm System Inspection: 8 years of related experience

Trade licenses shall be equivalent in experience as follows:

Journeyman Plumbing License: 3 years
Master Plumbing License: 5 years
Journeyman Electrician License: 3 years
Master Electrician License: 5 years
Class A Air Conditioning & Refrigeration License: 5 years
Class B Air Conditioning & Refrigeration License: 3 years

Notes:

1. Reference to "Master or Journeyman Electrical License" means possession of an Arlington license (valid through September 1, 2006), a license from another city that could be reciprocated with Arlington (valid through September 1, 2006) or a license issued by the TDLR.
2. All licenses and certifications must be maintained as active throughout the course of engagement.

Individual Plan Reviewer and Inspector Certification Requirements

		Plan Review & Inspection Activity						
	Fire Code	Food establishment	Building Code	Accessibility	Energy	Plumbing	Mechanical	Electrical
Certification Required								
Master Code Official			CPI	CPI	CPI	CPI w/TX Plumbing Inspector's License	CPI	CPI
Advanced Fire Inspector	CPI							
Registered Sanitarian		CPI						
Building Inspector or Commercial Building Inspector			CI					
Electrical Inspector or Commercial Electrical Inspector								CI
IAEI Certified Electrical Inspector-Master								CI
Mechanical Inspector or Commercial Mechanical Inspector							CI	
Plumbing Inspector or Commercial Plumbing Inspector						CI w/TX Plumbing Inspector's License		
Combination Plans Examiner			CP			CP	CP	CP

Building Plans Examiner			CP					
Electrical Plans Examiner								CP
Mechanical Plans Examiner							CP	
Plumbing Plans Examiner						CP		
Building Code Official			CPI					
Electrical Code Official								CPI
Mechanical Code Official							CPI	
Plumbing Code Official						CPI w/TX Plumbing Inspector's License		
Commercial Energy Inspector					CI			
Commercial Energy Plans Examiner					CP			
Accessibility Inspector/Plans Examiner				CPI				

CP=Commercial Plan Review
I=Inspection



Attachment 2: Public Works and Water Utilities

Minimum Qualifications for Civil Engineering Plan Review And Construction Inspection

I. Policies, Specifications and Guidelines to be followed:

- Ordinances Governing Water and Sewer in the City of Arlington Texas, latest revision
- City Standard Specifications for Waterworks and Sewerage Improvements, latest revision
- North Central Texas Council of Governments Standard Specifications for Public Works Construction
- City of Arlington Subdivision Rules and Regulations, latest revision
- City Guide for Design Policies and Procedures for Water and Sanitary Sewer Utilities Systems, latest revision
- Regulations of the Texas Commission on Environmental Quality (TCEQ), National Sanitation Foundation (NSF)
- Regulations of the Texas Department of Insurance, Insurance Services Office
- City's current adopted Uniform Fire Code
- Texas Administrative Code, Title 30 Chapter 290
- Texas Administrative Code, Title 30 Chapter 317
- City of Arlington Design Criteria Manual, latest revision
- City of Arlington Storm water Pollution Control Ordinance
- Manual on Uniform Traffic Control Devices
- City of Arlington Public Works standard specifications and standard construction details

II. Minimum qualifications

- Designate a responsible person in charge who has the following:
Texas Professional Engineering License
- Designate a person responsible for supervision of all civil plan review.
- Inspectors for public infrastructure including water must possess a current Class B Distribution License, or higher. issued by TCEQ.
- Inspectors for public infrastructure including sanitary sewer must possess a current Class III Wastewater Collection System Operator License, or higher, issued by TCEQ.
- Inspectors for public infrastructure including water, sanitary sewer, streets, drainage, storm water prevention plan, traffic control plan, streetlights and traffic signals must report to a licensed professional engineer (Texas).

III. Minimum qualifications for employees to perform listed acts

The attached table indicates the level of certifications required to perform the plan review and inspection.

Plan review must be performed by a qualified individual, and the individual shall certify the plans review under the direction of the responsible person noted above. Field inspections must be performed by qualified individuals, and the individuals shall certify the inspection reports.

In addition to the required minimum level of certifications, individuals performing plan review and inspections shall be required to provide proof of related experience as follows:

- Water and Sewer Plan Review: 3 years of related experience
- Paving and Drainage Plan Review: 3 years of related experience
- Storm water Pollution Prevention Plan Review: 3 years of related experience
- Streetlight Plan Review: 3 years of related experience
- Traffic Signal Plan Review: 3 years of related experience
- Traffic Control Plan Review: 3 years of related experience
- Traffic Impact Analysis: 8 years of related experience
- Water and Sewer Inspection: 8 years of related experience
- Paving and Drainage Inspection: 8 years of related experience
- Storm water Pollution Prevention Plan Inspection: 8 years of related experience
- Streetlight Construction Inspection: 8 years of related experience
- Traffic Signal Construction Inspection: 8 years of related experience
- Traffic Control Inspection: 8 years of related experience

Notes:

1. All licenses and certifications must be maintained as active throughout the course of engagement.
2. The City reserves the right to review, approve, and/or reject personnel assignments to this project.

SPECIMEN AGREEMENT SUBJECT TO FINAL NEGOTIATION

THE STATE OF TEXAS §

Professional Services Contract

COUNTY OF TARRANT §

THIS CONTRACT is entered into on this _____ day of _____, 200--, by and between the **CITY OF ARLINGTON, TEXAS**, a municipal corporation located in Tarrant County, Texas (hereinafter referred to as "CITY"), acting by and through its City Manager or his designee, and _____ (hereinafter referred to as "CONSULTANT").

W I T N E S S E T H:

WHEREAS, CITY desires to obtain professional consulting services in connection with _____

(hereinafter referred to as the "PROJECT");
and

WHEREAS, CONSULTANT is qualified to provide such services and is willing to undertake such services for CITY in exchange for fees hereinafter specified; NOW, THEREFORE,

IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of its profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If CONSULTANT is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional or national professional standards.

II.

Scope of Services

The scope of services shall also be performed in accordance with the CONSULTANT's proposal, attached hereto as Exhibit "A" and incorporated herein as if written word for word. In case of conflict in the language of Exhibit "A" and this Contract, this Contract shall govern and control. Deviations from the scope of services or other provisions of this Contract may only be made by written agreement signed by all parties to this Contract.

III. Compensation

CITY agrees to pay to CONSULTANT for satisfactory completion of all services included in this Contract a total fee not to exceed _____ and ____/100 Dollars (\$_____), including out-of-pocket expenses. CONSULTANT shall invoice CITY at the completion of the PROJECT. Payment will be made within thirty (30) days after CITY's receipt of CONSULTANT's invoice or statement and any interest charged for late payment shall be in accordance with the Texas Prompt Payment Act. Nothing contained in this Contract shall require CITY to pay for any work that is unsatisfactory as determined by CITY or which is not submitted in compliance with the terms of this Contract. CITY will not be required to make any payments to CONSULTANT when CONSULTANT is in default under this Contract, nor shall this paragraph constitute a waiver of any right, at law or in equity, which CITY may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

The Scope of Services shall be strictly limited. CITY shall not be required to pay any amount in excess of the original proposed amount unless CITY shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

IV. Term

This Contract shall begin on the date first written above and continue until completion of the PROJECT by CONSULTANT and CITY's acceptance of the final reports to be provided in accordance with CONSULTANT's proposal.

V.
Termination

CITY or CONSULTANT may terminate this Contract upon thirty (30) days written notice to the other party. Upon receipt of termination notice, CONSULTANT shall stop all work in progress, including subcontracts. All finished or unfinished documents, data, studies, surveys, drawings, maps, reports, photographs, etc. prepared by CONSULTANT and all subcontractors will be delivered to CITY and shall become the property of CITY upon final payment to CONSULTANT. CITY shall pay CONSULTANT for all work performed in accordance with the provisions of this Contract prior to the date of termination only. CONSULTANT shall invoice CITY for all work performed within thirty (30) days of termination notice. CITY shall not be responsible for payment of any invoices received after the expiration of thirty (30) days from notice of termination. CITY shall not be responsible for payment of any "termination expenses".

Upon expiration or termination of this Contract, CONSULTANT shall promptly return to CITY all computer programs, files, documentation, media, related material and any other material that is owned by CITY. Expiration or termination of this Contract shall not relieve CONSULTANT of its obligations under this Contract regarding proprietary or confidential information.

VI.
Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of CITY and shall be delivered to CITY, without restriction on future use. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VII.
Proprietary and Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature.

CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate for its own use or the use of any third party, at any time during or subsequent to this Contract, such Confidential Information. As used herein, "Confidential Information" means all oral and written information concerning City of Arlington, its affiliates and subsidiaries, and all oral and written information concerning the CITY or its activities, which is of a non-public, proprietary or confidential nature, including without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term Confidential Information shall not include such materials which are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority.

VIII. Confidential Work

CONSULTANT may not disclose or make available any reports, information, evaluation, data or any other documentation developed by, given to, prepared by or assembled by CONSULTANT under this Contract to any individual or organization without the express prior written approval of CITY.

IX. Insurance

CONSULTANT shall purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until it has obtained all the insurance required under the Contract and such insurance has been approved by CITY; nor shall CONSULTANT allow any subcontractor to commence work on his subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract, except for Professional Liability Insurance, shall be written on an "occurrence" basis.

1. Workers' Compensation, as required by law, with the policy endorsed to provide a waiver of subrogation as to the owner; Employer's Liability insurance of not less than \$100,000 for each accident,

\$100,000 disease - each employee, and \$500,000 disease - policy limit.

2. Commercial General Liability Insurance, covering, but not limited to the indemnification provisions of this Contract, fully insuring CONSULTANT's liability for injury to or death of employees of CITY and third parties, extended to include personal injury liability coverage, and for damage to property of third parties, with a combined bodily injury and property damage minimum limit of \$2,000,000 per occurrence, \$5,000,000 annual aggregate. This policy shall have no coverages removed by exclusions.

3. Comprehensive Automobile and Truck Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage limit of \$500,000 combined single limit.

4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be \$10,000,000 per claim. CONSULTANT shall maintain this policy for a period of five (5) years after the completion of the project or shall purchase extended reporting period or "tail" coverage insurance.

It is agreed by all parties to this Contract that the insurance required under this Contract shall:

- (a) be written with the City of Arlington as an additional insured on all policies or coverages except Workers' Compensation and Employer's Liability Insurance, and Professional Liability Insurance;
- (b) provide for thirty (30) days notice of cancellation to CITY, for nonpayment of premium, material change or any other cause;
- (c) be written through companies duly authorized to transact that class of insurance in the State of Texas;
- (d) waive subrogation rights for loss or damage so that insurers have no right to recovery or subrogation against CITY, it being the intention that the required insurance policies shall protect all parties to the Contract and be primary coverage for all losses covered by the policies; and

- (e) provide a Certificate of Insurance evidencing the required coverages to:

Risk Manager
City of Arlington
Post Office Box 231
Arlington, Texas 76004-0231

CITY reserves the right to review the insurance requirements of this section during the effective period of the Contract and to adjust insurance coverages and their limits when deemed necessary by CITY's Risk Manager based upon changes in statutory law, court decisions or the claims history of the industry as well as CONSULTANT.

Approval, disapproval or failure to act by CITY regarding any insurance supplied by CONSULTANT shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability.

X.
Right to Inspect Records

CONSULTANT agrees that CITY shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that CITY shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. CITY shall give CONSULTANT reasonable advance notice of intended audits.

CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or consultant agrees that CITY shall have access to and the right to examine any directly pertinent books, documents, papers and records of such consultant or subcontractor involving transactions to the subcontract, and further, that CITY shall have access during normal working hours to all consultant or subcontractor facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. CITY shall give CONSULTANT or subcontractor reasonable advance notice of intended audits.

XI.
Indemnity

CONSULTANT does hereby covenant and agree to waive all claims, release, indemnify and hold harmless CITY and its officials, officers, agents, representatives, employees, and invitees from and against any and all liability, claims, suits, demands or and causes of action, (including, but not limited to, attorney's fees and cost of litigation), which may arise by reason of death or injury to property or persons occasioned by any error, omission or negligent act of CONSULTANT, its officials, officers, agents, employees, invitees or other persons for whom CONSULTANT is legally liable with regard to the performance of this Contract, and CONSULTANT will, at its own cost and expense, defend and protect CITY against any and all such claims and demands.

XII.
Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of CITY in the performance of this Contract. No term or provision of or act of CONSULTANT or CITY under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors, and consultants, and that the doctrine of respondeat superior shall not apply between CITY and CONSULTANT, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and CONSULTANT.

XIII.
Default

CITY reserves the right to terminate this Contract immediately upon material breach of any term or provision of this Contract by CONSULTANT; or, if at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract or fail to use an adequate number or

quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then CITY shall have the right, if CONSULTANT shall not cure any such default after ten (10) working days written notice thereof, to terminate this Contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to CITY of the performance of the balance of the work is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse CITY for such excess.

XIV. Changes

CITY may, from time to time, require changes in the scope of the services to be performed under this Contract. Such changes as are mutually agreed upon in writing by and between CITY and CONSULTANT shall be incorporated by written modification to this Contract.

XV. Conflict of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

XVI. Mailing Address

All notices and communications under this Contract to be mailed or delivered to CITY shall be sent to the address of CITY's agent as follows, unless and until CONSULTANT is otherwise notified:

City of Arlington
Post Office Box 90231
Arlington, Texas 76004-3231

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until CITY is otherwise notified:

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted by the sending party.

XVII.
Successors and Assigns

CITY and CONSULTANT each binds himself and his successors, executors, administrator and assigns to the other party of this Contract and to the successor, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither CITY nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XVIII.
Applicable Law

This Contract is entered into subject to the Charter and ordinances of CITY as they may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and Federal laws. CONSULTANT will make any and all reports required per Federal, State or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income. Situs of this Contract is agreed to be Tarrant County, Texas, for all purposes including performance and execution.

XIX.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are held for any reason to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall

remain in full force and effect and shall in no way be affected, impaired or invalidated.

**XX.
Remedies**

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

**XXI.
Entire Agreement**

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein, cannot be modified without written agreement of the parties.

**XXII.
Non-Waiver**

It is further agreed that one (1) or more instances of forbearance by CITY in the exercise of its rights herein shall in no way constitute a waiver thereof.

**XXIII.
Headings**

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

**XXIV.
Venue**

The parties to this Contract agree and covenant that this Contract will be enforceable in Arlington, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Tarrant County, Texas.

**XXV.
Equal Employment Opportunity**

CONSULTANT shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, ancestry, national origin, place of birth or disability. CONSULTANT shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, age, color, religion, sex, ancestry, national origin, place of birth or disability. This action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship.

XXVI.

Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses

In performing this Contract, CONSULTANT agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on this Contract, CONSULTANT agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this Contract.

IN WITNESS WHEREOF, the parties have hereunto set their hands by their representatives duly authorized on the day and year first written above.

BY _____

Printed/Typed Name

Printed/Typed Title

Tax Identification No.

WITNESS:

CITY OF ARLINGTON, TEXAS

BY _____

ATTEST

BARBARA HEPTIG, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY _____

THE STATE OF _____ §
COUNTY OF _____ §

Consultant Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of _____, on this day personally appeared _____, who is known to me or who was proved to me on the oath of _____ (name of person identifying the acknowledging person) or who was proved to me through _____ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be known to me (or proved to me on the oath of _____ or through _____ (description of identity card or other document)) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of _____, and as _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 200--.

Notary Public, State of Texas

My Commission Expires

Notary's Printed Name

THE STATE OF TEXAS §
COUNTY OF TARRANT §

City Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the **CITY OF ARLINGTON, TEXAS**, a municipal corporation of the State of Texas, Tarrant County, Texas, and as the _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 200--.

Notary Public, State of Texas

My Commission Expires

Notary's Printed Name